

LYNCHBURG CITY COUNCIL

Agenda Item Summary

MEETING DATE: **July 13, 2004**

AGENDA ITEM NO.: 20

CONSENT:

REGULAR: X

CLOSED SESSION:

(Confidential)

ACTION: X

INFORMATION:

ITEM TITLE: Amend Section 36-171(g) of the City Code to allow the assessment of an administrative fee on delinquent accounts, other than taxes, when a lien is placed upon an account and to increase the administrative fee from \$20.00 to \$30.00.

RECOMMENDATION: Adopt an ordinance to amend SECTION 36-171(g) of the City Code to allow an administrative fee to be assessed on all delinquent accounts, including taxes, when a lien is placed upon an account, and to increase the administrative fee from \$20.00 to \$30.00.

SUMMARY: As a component of the delinquent collection process, the City has the authority to place liens (garnishments) for unpaid taxes and other charges. In 1995, Section 36-171(g) of the City Code was enacted to parallel the State Code to allow the assessment of an administrative fee for delinquent tax liens. The State Code has been amended to expand the authority of local governments to assess the administrative fee for all delinquent accounts including taxes. In addition, the State Code provides for a \$30.00 administrative fee compared to City's present fee of \$20.00. The proposed ordinance to amend Section 36-17(g) of the City Code will parallel the State Code authority for the assessment of administrative fees for delinquent accounts. The following changes are recommended:

- Expand the applicability of the administrative fee to all delinquent charges in addition to delinquent taxes
- Increase the administrative fee from \$20.00 to \$30.00
- Provide for a \$35.00 administrative fee if a judgment is obtained through the courts
- Provide for an administrative fee for a nuisance abatement lien (i.e. weeds) of \$150.00 or 25% of the cost, whichever is less.

PRIOR ACTION(S): July 6, 2004; Finance Committee recommended adoption of the proposed amendment.

FISCAL IMPACT: Increased revenues from delinquent accounts administrative fees.

CONTACT(S): Susan Hargis 455-3852

ATTACHMENT(S): Ordinance amending Section 36-171(g) of the City Code

REVIEWED BY: lkp

AN ORDINANCE TO AMEND AND REENACT SECTION 36-171 OF THE CODE OF THE CITY OF LYNCHBURG, 1981, THE AMENDED SECTION RELATING TO THE ADMINISTRATIVE FEE TO BE CHARGED BY THE CITY WHEN COLLECTING DELINQUENT TAXES AND OTHER CHARGES.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF LYNCHBURG:

1. That Section 36-171 of the Code of the City of Lynchburg, 1981, be and the same is hereby amended and reenacted as follows:

Sec. 36-171. When tax installments due; penalty; partial payments.

(a) Effective on and after July 1, 1974, one-fourth of the city tax assessed on real estate for each fiscal year shall be paid to the city collector between November first and November fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between January first and January fifteenth, inclusive, of the fiscal year for which the tax is assessed, one-fourth shall be paid to the city collector between March first and March fifteenth, inclusive, of the fiscal year for which the tax is assessed, and the remaining one-fourth paid to the city collector between May first and May fifteenth, inclusive, of the fiscal year for which said tax is assessed.

(b) If any installment of taxes due on any particular piece of property shall not be paid as and when due as above set forth, said installment shall at once become due and collectible with ten (10) per cent penalty thereon.

(c) All city taxes for each year or fiscal year on tangible personal property, assessed under section 36-149 of this code, and all city taxes for each year or fiscal year on machinery and tools, assessed under section 36-151 of this code, shall be paid to the city collector between November first and November fifteenth, inclusive, of the year or fiscal year for which the tax is assessed.

(d) If any city taxes due on any tangible personal property for any year or fiscal year assessed under section 36-149 of this code, or on machinery and tools, assessed under section 36-151 of this code, shall not be paid as and when as above provided, then the same shall have added thereto the penalty of ten (10) per cent on the total amount of taxes levied, including any amount to be paid by the Commonwealth.

(e) Interest at the rate of eight (8) per cent per annum from the first day of the month following the month in which taxes on real estate, tangible personal property and machinery and tools are required to be paid shall be collected upon the principal and applicable penalty then remaining unpaid. Effective on and after July 1, 1995, interest at the rate of ten (10) per cent per annum from the first day of the month following the month in which taxes are required to be paid, shall be collected upon the principal and applicable penalty remaining unpaid. No penalty for the failure to pay a tax or installment shall exceed ten (10) percent of the tax past due, or in the case of tangible personal property ten (10) percent of the tax levied, including any amount paid by the Commonwealth, or the sum of ten dollars (\$10.00), whichever is greater; provided, however, that the penalty shall in no case exceed the amount of tax levied.

(f) Effective on and after July 1, 1995, whenever the city utilizes the services of an attorney or collection agency to collect delinquent taxes on subjects other than real estate, reasonable attorney's fees or collection agency's fees shall be added to the amount of the delinquent tax bill. The attorney's fees or collection agency's fees shall not exceed twenty (20) per cent of the delinquent tax bill upon nonpayment. Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity. No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Section 58.1-3980 of the Code of Virginia, 1950, as amended, so long as the appeal is filed within ninety days (90) of the date of the assessment, and for thirty (30) days after the date of the final determination of the appeal.

(g) ~~Effective on and after July 1, 1995, the~~ The city shall collect an administrative fee from each person who owes delinquent taxes or other delinquent charges ~~delinquent taxpayers to cover the administrative costs associated with the city's collection of delinquent taxes and other charges. , which shall not exceed twenty percent of the delinquent tax bill associated with the collection of the delinquent taxes.~~ Such administrative fee shall be in addition to all penalties and interest, and shall be thirty dollars (\$30.00) not exceed twenty dollars (\$20.00) for taxes or other charges collected subsequent to thirty (30) or more days after notice of delinquent taxes or charges pursuant to §58.1-3919 of the Code of Virginia ~~the filing of a warrant or other appropriate legal document but prior to the taking of any judgment with respect to such delinquent taxes or charges, and twenty-five dollars (\$25.00)~~ thirty-five dollars (\$35.00) for taxes or other charges collected subsequent to judgment. If the collection activity is to collect on a nuisance abatement lien, the fee for administrative costs shall be one hundred fifty dollars (\$150.00) or twenty-five percent (25%) of the cost, whichever if less; however, in no event shall the fee be less than twenty-five dollars (\$25.00). The city shall also collect from each person who owes delinquent taxes and other delinquent charges reasonable attorney's fees or collections agency fee's actually contracted for. The attorney's or collection agency's fees shall not exceed twenty percent (20%) of the taxes or other charges so collected. ~~Attorney's fees shall be added only if such delinquency is collected by action at law or suit in equity.~~ No tax assessment or tax bill shall be deemed delinquent and subject to the collection procedures prescribed herein during the pendency of any administrative appeal under Section 58.1-3980 of the Code of Virginia, so long as the appeal is filed within 90 days of the date of the assessment, and for 30 days after the date of the final determination of the appeal, provided that nothing in this paragraph shall be construed to preclude the assessment or refund, following the final determination of such appeal, of such interest as otherwise may be provided by general law as to that portion of the tax bill that has remained unpaid or was overpaid during the pendency of such appeal and is determined in such appeal to be properly due and owing.

2. That this ordinance shall be effective on its adoption.

Adopted:

Certified:

Clerk of Council

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